

# SENATE BILL 954

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CF 2lr3058

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By: **Senator Middleton**

Introduced and read first time: February 13, 2012

Assigned to: Rules

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## A BILL ENTITLED

1 AN ACT concerning

2 **Medical Records – HIPAA Consistency Act of 2012**

3 FOR the purpose of authorizing, subject to certain provisions of law relating to mental  
4 health services, a covered entity to disclose protected health information, as  
5 allowed under certain federal privacy laws; providing that certain provisions of  
6 this Act only authorize disclosure of protected health information in accordance  
7 with the federal privacy laws; authorizing a medical laboratory to disclose the  
8 results of a laboratory examination under certain circumstances; establishing a  
9 certain exception to the prohibition on the disclosure of certain medical records  
10 by an insurer, an insurance service organization, a nonprofit health service  
11 plan, or a Blue Cross or Blue Shield plan; defining certain terms; and generally  
12 relating to the disclosure of protected health information by a covered entity.

13 BY adding to

14 Article – Health – General  
15 Section 4–310  
16 Annotated Code of Maryland  
17 (2009 Replacement Volume and 2011 Supplement)

18 BY repealing and reenacting, with amendments,

19 Article – Health – General  
20 Section 17–202.1  
21 Annotated Code of Maryland  
22 (2009 Replacement Volume and 2011 Supplement)

23 BY repealing and reenacting, with amendments,

24 Article – Insurance  
25 Section 4–403 and 14–138  
26 Annotated Code of Maryland  
27 (2011 Replacement Volume)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Health – General**

4 **4–310.**

5 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
6 MEANINGS INDICATED.

7 (2) “COVERED ENTITY” HAS THE MEANING STATED IN 45 C.F.R.  
8 PART 160.

9 (3) “HIPAA” MEANS THE FEDERAL HEALTH INSURANCE  
10 PORTABILITY AND ACCOUNTABILITY ACT OF 1996 AND ANY REGULATIONS  
11 ADOPTED UNDER THE ACT.

12 (4) “PROTECTED HEALTH INFORMATION” HAS THE MEANING  
13 STATED IN 45 C.F.R. PART 160.

14 (B) SUBJECT TO THE LIMITATIONS ON DISCLOSURE OF A MEDICAL  
15 RECORD DEVELOPED IN CONNECTION WITH THE PROVISION OF MENTAL  
16 HEALTH SERVICES UNDER § 4–307 OF THIS SUBTITLE, A COVERED ENTITY MAY  
17 DISCLOSE PROTECTED HEALTH INFORMATION, INCLUDING PROTECTED HEALTH  
18 INFORMATION IN A MEDICAL RECORD, AS ALLOWED UNDER HIPAA AND OTHER  
19 APPLICABLE FEDERAL PRIVACY LAWS.

20 (C) THIS SECTION ONLY AUTHORIZES DISCLOSURE OF PROTECTED  
21 HEALTH INFORMATION IN ACCORDANCE WITH HIPAA AND OTHER APPLICABLE  
22 FEDERAL PRIVACY LAWS.

23 17–202.1.

24 (a) On written request of an individual to a medical laboratory for a copy of  
25 the results of a laboratory examination of that individual, the medical laboratory shall  
26 send a copy of those results that are sought to that individual.

27 (b) (1) If the results of a laboratory examination are contained in or will  
28 be filed in a medical record, as defined in § 4–301 of this article, the request for a copy  
29 of the results shall be made to the facility pursuant to the provisions of § 4–302 of this  
30 article.

31 (2) In all other cases, the medical laboratory may require the  
32 individual requesting a copy of the results to pay the prevailing cost of copying and  
33 transmitting the copy.

1 (c) The medical laboratory shall notify the individual's physician before  
2 sending the results to the individual.

3 (D) A MEDICAL LABORATORY MAY DISCLOSE THE RESULTS OF A  
4 LABORATORY EXAMINATION, AS AUTHORIZED UNDER § 4-310 OF THIS ARTICLE.

5 **Article – Insurance**

6 4-403.

7 (a) Except as provided in subsection (b), (c), or (d) of this section **OR IN**  
8 **§ 4-310 OF THE HEALTH – GENERAL ARTICLE**, an insurer, or an insurance service  
9 organization whose functions include the collection of medical data, may not disclose  
10 the contents of an insured's medical records.

11 (b) (1) An insurer may disclose specific medical information contained in  
12 an insured's medical records to:

13 (i) the insured;

14 (ii) the insured's agent or representative; or

15 (iii) on request of the insured, a physician of the insured's choice.

16 (2) An insurer, or an insurance service organization whose functions  
17 include the collection of medical data, may disclose specific medical information  
18 contained in an insured's medical records if the insured authorizes the disclosure.

19 (c) An insurer, or an insurance service organization whose functions include  
20 the collection of medical data, may disclose the contents of an insured's medical  
21 records without the authorization of the insured:

22 (1) to a medical review committee, accreditation board, or commission,  
23 if the information is requested by or is in furtherance of the purpose of the committee,  
24 board, or commission;

25 (2) in response to legal process;

26 (3) to a nonprofit health service plan or Blue Cross or Blue Shield plan  
27 to coordinate benefit payments under multiple sickness and accident, dental, or  
28 hospital medical contracts;

29 (4) to investigate possible insurance fraud;

30 (5) for reinsurance purposes;

1 (6) in the normal course of underwriting, to an insurer information  
2 exchange that may not redisclose the information unless expressly authorized by the  
3 person to whom the information pertains;

4 (7) to evaluate an application for or renewal of insurance;

5 (8) to evaluate and adjust a claim for benefits under a policy;

6 (9) to evaluate, settle, or defend a claim or suit for personal injury;

7 (10) in accordance with a cost containment contractual obligation to  
8 verify that benefits paid by the insurer were proper contractually; or

9 (11) to a policyholder if:

10 (i) the policyholder does not further disclose the specific  
11 medical information; and

12 (ii) the information is required for an audit of the billing made  
13 by the insurer to the policyholder.

14 (d) This section does not prohibit the use of medical records, data, or  
15 statistics if the use does not disclose the identity of a particular insured or covered  
16 person.

17 (e) An insurer that knowingly violates this section is liable to a plaintiff for  
18 any damages recoverable in a civil action, including reasonable attorney's fees.

19 14–138.

20 (a) Except as provided in subsection (b), (c), or (d) of this section **OR IN**  
21 **§ 4–310 OF THE HEALTH – GENERAL ARTICLE**, a nonprofit health service plan or  
22 Blue Cross or Blue Shield plan may not disclose specific medical information contained  
23 in a subscriber's or certificate holder's medical records.

24 (b) A nonprofit health service plan or Blue Cross or Blue Shield plan may  
25 disclose specific medical information contained in a subscriber's or certificate holder's  
26 medical records:

27 (1) to the individual or individual's agent or representative; or

28 (2) if the individual authorizes the disclosure.

29 (c) A nonprofit health service plan or Blue Cross or Blue Shield plan may  
30 disclose specific medical information contained in a subscriber's or certificate holder's  
31 medical records without the authorization of the subscriber or certificate holder:

1           (1)     to a medical review committee, accreditation board, or commission,  
2 if the information is requested by or is in furtherance of the purpose of the committee,  
3 board, or commission;

4           (2)     in response to legal process;

5           (3)     to another nonprofit health service plan, Blue Cross or Blue Shield  
6 plan, or insurer to coordinate benefit payments under multiple sickness and accident,  
7 dental, or hospital medical contracts;

8           (4)     to a government agency performing its lawful duties as authorized  
9 by an act of the General Assembly or United States Congress;

10          (5)     to a researcher, on request, for medical and health care research in  
11 accordance with a protocol approved by an institutional review board;

12          (6)     in accordance with a cost containment contractual obligation to  
13 verify that benefits paid by the nonprofit health service plan were proper  
14 contractually; or

15          (7)     to a third party payor if:

16                 (i)     the third party payor does not further disclose the specific  
17 medical information; and

18                 (ii)    the information is required for an audit of the billing made  
19 by the plan to the payor.

20          (d)     This section does not prohibit the use of medical records, data, or  
21 statistics if the use does not disclose the identity of a particular subscriber or  
22 certificate holder.

23          (e)     A nonprofit health service plan that knowingly violates this section is  
24 liable to a plaintiff for any damages recoverable in a civil action, including reasonable  
25 attorney's fees.

26          SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
27 October 1, 2012.